

## REMARKS

### STATUS OF THE CLAIMS

Claims 1-18, 20-34, and 36-41 were pending in this application. Claims 1-18, 20, 29-34, and 36-41 have been withdrawn without prejudice. Following entry of the amendments claims 21-28 will be pending and at issue.

### ELECTION/RESTRICTION REQUIREMENT

In accordance with 37 CFR 1.499, the Examiner required Applicant to elect a single invention to which the claims must be restricted. Office Action at 2. The groups are:

Group I, claim(s) 1-3, 9-17, 18, 20, and 36-39, drawn to a composition comprising a metal oxide-based nanoparticle and use thereof;

Group II, claim(s) 4-11, 18, 20, 40 and 41, drawn to a composition comprising a magnetic nanoparticle and use thereof;

Group III, claims 21-28, drawn to a method of making nanoparticle;

Group IV, claims 29-34, drawn to a method of functionalizing a nanoparticle.

**Applicant elects Group III** (claims 21-28), drawn to a method of making a nanoparticle, without traverse. Claims encompassing the elected invention are: 21-28. Office Action at 5.

Applicant withdraws, without prejudice, the non-elected claims. Applicant understands that the non-elected claims will be considered for rejoinder should the elected claims be found allowable. In addition, Applicant reserves the right to introduce canceled and/or non-elected subject matter in this or a separate continuation or divisional application. Also, the claim cancellations and/or withdrawals should not be construed as abandonment or agreement with the Examiner's position in the Office Action.

## CONCLUSION

Withdrawal of the pending rejections and reconsideration of the claims are respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicant's representative at (415) 875-2352.

Respectfully submitted,  
BING GUO

Dated: December 4, 2009 By: /Kevin Evel-Kabler/  
Kevin Evel-Kabler, Ph.D., Patent Agent  
Reg. No.: 63,090  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
Direct: (415) 875-2352  
Main: (415) 875-2300  
Fax: (650) 938-5200